



SURFACE TRANSPORTATION BOARD

[Docket Nos. AB 1307X; and AB 1308X]

York Railway Company—Discontinuance Exemption—in York County, Pa.; and Yorkrail, LLC—Abandonment Exemption—in York County, Pa.

Yorkrail, LLC (Yorkrail) and York Railway Company (YRC) (collectively, Applicants) jointly filed a verified notice of exemption under 49 CFR part 1152 subpart F—Exempt Abandonments and Discontinuances of Service for Yorkrail to abandon, and YRC to discontinue service over,¹ approximately 8.59 miles of rail line extending: (1) between approximately milepost 20.07, in the Village of Bair, Pa., in West Manchester Township, and approximately milepost 23.3, in the Borough of Spring Grove, Pa., in Jackson Township; and (2) between approximately milepost 24.10, near Spring Grove, and approximately milepost 29.46, near Hanover, Pa., in Heidelberg Township (the Line).² The Line traverses U.S. Postal Service Zip Codes 17362, 17331, and 17408. There are no stations on the Line.

Applicants have certified that: (1) no local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years;

¹ The joint verified notice was initially submitted indicating that both entities were seeking abandonment authority. By letter dated November 13, 2020, Applicants requested that the Board caption the proceedings as seeking discontinuance and abandonment exemptions to the extent that was more appropriate. See also York Ry.—Discontinuance Exemption—in York Cnty., Pa., AB 1307X et al. (STB served November 17, 2020).

² Applicants state that “YRC owns all of the common carrier operating rights with respect to [the Line], while Yorkrail is a carrier by virtue of its ownership of the underlying rail assets comprising [the Line].” (Verified Notice 2.) See also Md. & Pa. R.R. & Yorkrail, Inc.—Intracorporate Family Transaction Exemption, FD 33815 (STB served Dec. 13, 1999). According to Applicants, Genesee & Wyoming, Inc., gained control of the two companies in 2002. See Genesee & Wyo. Inc.—Control Exemption—ETR Acquis. Corp., FD 34148 (STB served Feb. 28, 2002).

(3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met. Applicants request waiver of the 20-day advance service requirement for the environmental and historic report under 49 CFR 1105.7 and 1105.8; that request has been granted in a separate decision. See York Ry.—Discontinuance Exemption—in York Cnty., Pa., AB 1307X et al. (STB served November 17, 2020).

As a condition to these exemptions, any employee adversely affected by the abandonment and discontinuance shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,³ the exemptions will be effective on December 20, 2020, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,⁴ formal expressions of intent to file an OFA under

³ Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (i.e., subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 CFR 1152.27(c)(2)(i).

⁴ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemptions' effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemptions' effective date.

49 CFR 1152.27(c)(2), and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 30, 2020.⁵ Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 10, 2020.

A copy of any petition filed with the Board should be sent to Applicants' representative, Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103.

If the verified notice contains false or misleading information, the exemptions are void ab initio.

Applicants have filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA will issue a Draft Environmental Assessment (Draft EA) by November 27, 2020. The Draft EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the Draft EA becomes available to the public.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), Yorkrail shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by Yorkrail's filing of a notice of consummation by November 20, 2021, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at www.stb.gov.

⁵ Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

Decided: November 17, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

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